

SCANNED

DATE: 08/16/04

BY: SK

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

FILED  
CLERK'S OFFICE  
AUG 13 P 12:29  
U.S. DISTRICT COURT  
DISTRICT OF MASS.

MICHELLE LYNN KOSILEK

Petitioner,

v.

LUIS SPENCER

Respondent.

Civil Action No. 04-11591-RCL

**MOTION TO DISMISS**

The respondent, Luis Spencer, Superintendent of MCI Norfolk, respectfully moves this Court to dismiss the above-captioned petition for writ of habeas corpus for failure to state a claim upon which relief can be granted. Fed. R. Civ. P. 12(b)(6). The petition is time-barred. See 28 U.S.C. § 2244 (d)(1)(A).

A memorandum in support of this Motion is attached.

Respectfully submitted,

THOMAS F. REILLY  
ATTORNEY GENERAL

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8